THE HON'BLE MR JUSTICE J.CHELAMESWAR

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 21636 of 2005

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DATED: 16.11.2005

Between:

The Engineer-in-Chief, Irrigation (Admn. Wing)

Govt. of Andhra Pradesh, Hyderabad,

& 3 others.

… PETITIONERS.

AND

R. Narasarama Raju

… RESPONDENT.

THE HON'BLE MR JUSTICE J.CHELAMESWAR

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

ORDER: (PER THE HONOURABLE JC,J)

Aggrieved by the order in O.A.No.4945 of 2001 and the miscellaneous applications disposed by a common order, dated 19.11.2004, the respondents therein preferred the present writ petition with a prayer as follows:

> ".....Hon'ble Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Certiorari and calling for the records relating to the order passed in O.A.No.4945 of 2001 with VMA.No.497 of 2001, M.A.No.275 of 2004 and C.A.No.75 of 2004, dated 19.1.2004 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary and pass such other order or orders as deemed fit and proper in the circumstances of the case."

The sole respondent herein was appointed as Full Time Contingent Watchman on 01.05.1992. By G.O.Ms.No.38, Finance and Planning Department, dated 01.02.1980, the Government ordered that the persons who were working as contingent employees in the last grade for a period of ten years or more are to be retained on permanent basis and absorbed into last grade service of the State. The said Government Order was further amended by G.O.Ms.Nos.9 and 233, dated 08.01.1981 and 19.08.1983 respectively, to the effect that the contingent employees in Government including those in the projects not covered by G.O.Ms.No.38, who have completed five years of service, shall be paid the minimum of the time scale of last grade servants. The further details may not be necessary. The issuance of Government Orders continued unabated and the last in the series was G.O.Ms.No.184, Finance and Planning Department, dated 28.06.1991, wherein it was stipulated that ten years service contemplated in the earlier Government orders should be prior to 01.06.1991. In the case of the respondent, he was admittedly in service for ten years, but he completed the period of ten years only on 01.05.1992. However, ignoring the Government orders, it appears that the respondent was absorbed into the last grade service by the 3rd respondent office on 11.06.1992. Some five years later, it was noticed by somebody in the Government that the abovementioned decision of the 3rd respondent office to absorb the respondent into last grade service was contrary to the various Government orders referred to above. Accordingly, action was initiated in substance to recover the excess amounts paid to the respondent pursuant to his illegal absorption into the last grade service. Challenging the same, the respondent filed the abovementioned O.A. The Tribunal

with very cogent reasons allowed the O.A. The relevant portion of the order reads as follows:

> "Further, if we look at the clarification issued by the Government in Memo No.20050/232/PRC-III/85, Finance and Planning Department, dated 23.09.1985, it is quite clear that, at that time, the Government intended that the length of time required for being eligible for conversion need not be based on a rigid cut off date, but can be flexible and extendable, as and when an individual completes the required length of service. The application of G.O.Ms.No.212, dated 22.04.1994, to this case, will be unfair and unjust. In this case, the applicant has already acquired the necessary eligibility for conversion into an employee drawing the regular scale of pay, even before the issue of G.O.Ms.No.212, dated 22.04.1994. Therefore, his case was, in fact rightly considered much earlier and orders were issued as far back as on 11.06.1992, coverting the applicant into Last Grade Servant, with effect from 01.06.1991. The said orders were modified on 04.07.1992, after noticing that the applicant in fact, has not completed 10 years of service as on 31.05.1991, but has become eligible for conversion as on 01.05.1992."

We do not see any error or illegality in the order of the Tribunal warranting interference of this Court.

The writ petition is dismissed accordingly, at the admission stage.

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J.CHELAMESWAR, J

Date: 16.11.2005

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RAMESH RANGANATHAN, J

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